

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Barry Lee Jones,)	No. CV-01-0592-TUC-TMB
)	
Petitioner,)	DEATH PENALTY CASE
vs.)	
)	ORDER
Ryan Thornell, et al.,)	
)	
Respondents.)	
)	

Pending before the Court is Petitioner Barry Lee Jones's Unopposed Motion for Leave to Provide Legal Representation in State Court Postconviction Proceedings. (Doc. 383.)

The Criminal Justice Act provides for federally appointed counsel to represent their client in "other appropriate motions and procedures." 18 U.S.C. § 3599(e). Section 3599(e) does not ordinarily include state habeas proceedings, because they are not "properly understood as a 'subsequent stage' of judicial proceedings but rather as the commencement of new judicial proceedings." *Harbison v. Bell*, 556 U.S. 180, 189 (2009). Nevertheless, "a district court may determine on a case-by-case basis that it is appropriate for federal counsel to exhaust a claim in the course of her federal habeas representation." 556 U.S. at 190 n.7; *see also In re Commonwealth's Motion to Appoint Counsel Against or Directed to Defender Ass'n of Phila.*, 790 F.3d 457, 462 (3d Cir. 2015) ("In some circumstances, a

1 federal court can appoint counsel to represent a federal habeas corpus petitioner in state
2 court for the purpose of exhausting state remedies before pursuing federal habeas relief.”
3 (citing *Harbison*, 556 U.S. at 190 n.7)).
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5 The Court finds in the interests of judicial economy and avoidance of delay that it
6 is appropriate to exercise its discretion and appoint the Federal Public Defender’s Office
7 to represent Jones in state post-conviction proceedings pursuant to Rule 32 of the Arizona
8 Rules of Criminal Procedure. Federal counsel has substantial experience working on
9 capital cases and, more significantly, is familiar with the underlying factual and legal
10 grounds for the anticipated state court action, including the approximately 22 years of
11 ongoing, complex federal habeas litigation.
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14 Accordingly,

15 **IT IS ORDERED** that Petitioner’s Unopposed Motion for Leave to Provide Legal
16 Representation in State Court Postconviction Proceedings (Doc. 383) is granted.
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18 Dated this 3rd day of May 2023.

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21 TIMOTHY M. BURGESS
22 UNITED STATES DISTRICT JUDGE
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